

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.18964 of 2015

Date of decision: September 09, 2015.

LUTHRA METAL INDUSTRIES PVT. LTD.

... **Petitioner**

v.

STATE OF HARYANA AND ORS.

... **Respondents**

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. Whether to be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

CORAM: **HON'BLE MR. JUSTICE HEMANT GUPTA**
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Shri Vinod S. Bhardwaj, Advocate, for the petitioner.

Hemant Gupta, J. (oral)

Challenge in the present writ petition is to the acquisition of land measuring 18 kanal 3 marla, initiated vide notification dated 13.5.2010 (Annexure P-6) issued under Section 4 of the Land Acquisition Act, 1894 (in short the Act), followed by a declaration under Section 6 of the Act issued on 12.5.2011. The petitioner further seeks quashing of the notification dated 10.5.2013 (Annexure P-11) vide which the Award has been announced in respect of 18 kanal 3 marla of land.

The writ petitioner earlier filed writ petition bearing CWP No.20419 of 2013, which was decided on 29.11.2013 with a direction to the respondents to consider whether any part of the land of the land-owners can be released in terms of the policies then applicable. In terms of the said

direction, impugned order Annexure P-14 has been passed. In compliance of the said order, during the site visit, it was found as under:-

“(c) Site Visit and Report

- (i) Representative of the Company appeared for the personal hearing. It was observed during the site visit that the petitioner company had constructed a guard room (approximately 29.49 square meters) in khasra No.21//22, unloading platform (8.0 m x 3.4 m) in khasra No.21//18 and labour room (3.9 m x 3.7 m) in Khasra No.21//18 along with a boundary wall. The portion of plant comprising in the restricted belt/green belt has been acquired and the remaining portion of the land under the unit was excluded at the time of issue of section 6 declaration dated 12.05.2011.*
- (ii) Thus out of the total land measuring 91 kanal 06 marla, the Government had already excluded 73 kanal 03 marla land under the industrial unit and acquired only 18 kanal 03 marla land forming a sort of the statutory Green Belt.*
- (iii) The land in question which the allottee wants to get released is forming a part of green belt along NH-8.*
- (iv) The said land was/is lying vacant before the issue of Section 4 notification.*
- (v) The subject land is marked on the layout plan at Serial No.16 in the enclosed Annexure-1. As per the layout plan, the land of the petitioner company comprising in khasra Nos.21//18 (4-0), 19(4-10), 22(9-2) and 23(0-11) is forming part of land required for the 50 metres wide statutory green belt along with NH-8. A major portion of the land under factory was excluded at the time of issue of section 6 declaration itself.”*

It was thus concluded as under:-

“It is pertinent to mention here that the petitioner company was granted CLU permission vide letter dated 04.03.1983 by the Director, Town and Country Planning, Haryana subject to the condition that the petitioner company would leave the land required for the 60 metres wide green belt along H-8 and 15 metres service road. During site inspection, it was noted that the acquired land was lying vacant at site and is forming a part of the statutory green belt along with NH-8 and hence the same

cannot be released. Held accordingly.” (Emphasis supplied)

It is not the case of the petitioner that while granting change of land use on 4.3.1983, there was no condition of leaving the land for 60 metres wide green belt along the National Highway No.8 and 15 metres wide service road. However, it is argued that as of now the respondents have not planned 15 metres wide service road, therefore, the said area should be left from acquisition.

Another argument raised by learned Counsel for the petitioner is that the direction of the High Court was to consider the release of land in terms of the Government policies but none of the Government policies also have been taken into consideration.

We have heard learned Counsel for the petitioner at length and find no merit in the writ petition.

Since the change of land use itself was granted to the petitioner with the condition of leaving 60 metres land required for green belt along the National Highway as well as 15 metres service road, therefore, the land for the said purpose measuring 16 kanal 3 marla has been rightly made subject matter of acquisition. The total land owned by the petitioner is 91 kanal 6 marla whereas 73 kanal 3 marla has been excluded from acquisition where industrial unit has been set up by the petitioner. Since the change of land use was conditional and the acquisition is in furtherance of such condition, we do not find any error in the order passed by the Land Acquisition Collector.

We do not find that the petitioner is entitled to release of land in terms of any Government policy. Once the change of land use is

conditional, therefore, acquisition of land, which is part of the condition granted to the petitioner, cannot be claimed for release. The petitioner could not refer to any policy which deals with the situation as in the present case. We do not find any error in the order passed by the respondents, which may warrant interference in the writ jurisdiction of this Court.

Dismissed.

[Hemant Gupta]
Judge

[Raj Rahul Garg]
Judge

September 09, 2015.
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